

SENATE AMENDMENTS

2nd Printing

By: Krusee

H.B. No. 3711

A BILL TO BE ENTITLED

AN ACT

relating to the repeal of obsolete statutes regulating railroads.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 112, Revised Statutes, is amended by adding Article 6259a to read as follows:

Art. 6259a. DEFINITION. In this title, a reference to a railroad corporation or a railroad company means:

(1) a railroad incorporated under this title before September 1, 2007; or

(2) any other legal entity operating a railroad in this state, including an entity organized under the Texas Business Corporation Act or the Texas Corporation Law provisions of the Business Organizations Code.

SECTION 2. Article 6336, Revised Statutes, is amended to read as follows:

Art. 6336. WHEN CORPORATION AND OWNER DISAGREE. (a) A [if any] railroad corporation may acquire property by condemnation if the corporation cannot [shall at any time be unable to] agree with the owner for the purchase of the property and the property is [any real estate, or material thereon,] required for the following purposes:

(1) the [purpose of its] incorporation of the railroad;

(2) [or] the transaction of railroad corporation [its]

business;

(3) ~~for its~~ depots, station buildings, and machine and repair shops;

(4) ~~for~~ the construction of reservoirs for the water supply;

(5) ~~or for~~ the right of way, or ~~for a~~ new or additional right of way;

(6) a ~~for~~ change~~or~~ or relocation;

(7) a ~~or~~ road bed;

(8) shortening a ~~to shorten the~~ line;

(9) reducing ~~or any part thereof, or to reduce its~~ grades;

(10) ~~or any of them, or for~~ double tracking the ~~its~~ railroad or constructing and operating ~~its~~ tracks; or

(11) ~~which is hereby authorized and permitted, or for~~ any other ~~lawful~~ purpose connected with or necessary to the building, operating, or running of the railroad ~~its road, such corporation may acquire such property by condemnation thereof. The limitation in width prescribed by Article 6319 shall not apply to real estate or any interest therein, required for the purposes herein mentioned, other than right of way, and shall not apply to right of way when necessary for double tracking or constructing or adding additional railroad tracks, and real estate, or any interest therein, to be acquired for such other purposes, or any of them, need not adjoin or abut on the right way, and no change of the line through any city or town, or which shall result in the abandonment of any station or depot, shall be made, except upon written order of~~

~~the Railroad Commission of Texas, authorizing such change].~~

(b) A ~~[No]~~ railroad corporation may not ~~[shall have the right under this law to]~~ condemn property under ~~[any land for the purposes mentioned in]~~ this article that is located ~~[situated]~~ more than two miles from the right of way of the ~~[such]~~ railroad corporation.

SECTION 3. Article 6351, Revised Statutes, is amended to read as follows:

Art. 6351. EMINENT DOMAIN. A ~~[When any]~~ railroad corporation or a receiver ~~[receivers]~~ of a ~~[any]~~ railroad that changes, relocates, or abandons a ~~[shall have been empowered under the provisions of this law to change, relocate or abandon its]~~ line of railroad in this State may ~~[, it shall have full power to]~~ acquire by condemnation or otherwise all lands for right of way, depot grounds, shops, roundhouses, water supply sites, sidings, switches, spurs or any other ~~[lawful]~~ purposes connected with or necessary to the building, operating or running of the railroad, ~~[its road]~~ as changed, relocated or abandoned; provided~~[, however,]~~ that ~~[all]~~ property ~~[so]~~ acquired under this article is ~~[hereby]~~ declared ~~[to be]~~ for and ~~[is]~~ charged with public use ~~[so far as the same may be necessary]~~.

SECTION 4. Article 6445(a), Revised Statutes, is amended to read as follows:

(a) To the extent not preempted by federal law, ~~[Power and authority are hereby conferred upon]~~ the Texas Department of Transportation:

(1) has power and authority over:

1 (A) [all] railroads, including ~~[and]~~ suburban,
2 belt and terminal railroads;

3 (B) ~~[, and over all]~~ public wharves, docks,
4 piers, elevators, warehouses, sheds, tracks and other property used
5 in connection with railroads; ~~[therewith in this State,]~~ and

6 (C) ~~[over all]~~ persons, associations and
7 corporations, private or municipal, owning or operating a [such]
8 railroad, or a wharf, dock, pier, elevator, warehouse, shed, track
9 or other property used in connection with a railroad; and

10 (2) shall ~~[to fix, and it is hereby made the duty of~~
11 ~~the said department to adopt all necessary rates, charges and~~
12 ~~regulations, to]~~ govern and regulate those ~~[such]~~ railroads,
13 persons, associations and corporations~~[, and to correct abuses and~~
14 ~~prevent unjust discrimination in the rates, charges and tolls of~~
15 ~~such railroads, persons, associations and corporations, and to fix~~
16 ~~division of rates, charges and regulations between railroads and~~
17 ~~other utilities and common carriers where a division is proper and~~
18 ~~correct,]~~ and ~~[to]~~ prevent ~~[any and all other]~~ abuses in the conduct
19 of their business ~~[and to do and perform such other duties and~~
20 ~~details in connection therewith as may be provided by law]~~.

21 SECTION 5. The following are repealed:

22 (1) Articles 6259, 6260, 6261, 6262, 6263, 6264, 6265,
23 6266, 6267, 6268, 6269, 6270, 6271, 6272, 6273, and 6274, Revised
24 Statutes;

25 (2) Articles 6275, 6276, 6277, 6278, 6279, 6280, 6281,
26 6282, 6283, 6284, 6285, 6286, and 6287, Revised Statutes;

27 (3) Articles 6288, 6289, 6290, 6291, 6292, and 6293,

1 Revised Statutes;

2 (4) Articles 6294, 6295, 6296, 6297, 6298, 6299, 6300,
3 6301, 6302, 6303, 6304, 6305, 6306, 6307, and 6308, Revised
4 Statutes;

5 (5) Articles 6309, 6310, 6311, 6312, 6313, 6314, and
6 6315, Revised Statutes;

7 (6)(A) Articles 6316, 6317, 6319, 6321, 6322, 6323,
8 6325, 6328, 6329, 6330, 6331, 6332, 6333, 6334, 6335, and 6340,
9 Revised Statutes; and

10 (B) Chapter 73, Acts of the 39th Legislature,
11 Regular Session, 1925 (Article 6316a, Vernon's Texas Civil
12 Statutes);

13 (7) Articles 6342, 6343, 6344, 6345, 6346, 6347, 6348,
14 6349, 6350, 6352, and 6353, Revised Statutes;

15 (8)(A) Articles 6354, 6355, 6356, 6357, 6358, 6359,
16 6360, 6361, 6362, 6363, 6364, 6365, 6368, 6369, 6372, 6373, 6374,
17 6375, 6376, 6379, 6380, 6381, 6382, 6383, 6384, 6385, 6386, 6387,
18 6388, 6389, 6390, 6391, 6392, 6393, 6394, 6395, 6396, 6397, 6398,
19 6399, 6401, 6403, 6404, 6405, 6406, 6407, 6408, 6409, 6410, 6411,
20 6412, 6413, 6414, 6415, 6416, 6418, and 6419, Revised Statutes;

21 (B) Chapter 33, Acts of the 69th Legislature,
22 Regular Session, 1985 (Article 6398a, Vernon's Texas Civil
23 Statutes);

24 (C) Chapter 240, Acts of the 40th Legislature,
25 Regular Session, 1927 (Article 6418a, Vernon's Texas Civil
26 Statutes); and

27 (D) Chapter 296, Acts of the 41st Legislature,

1 Regular Session, 1929 (Article 6418b, Vernon's Texas Civil
2 Statutes);

3 (9) Articles 6421, 6422, 6423, 6424, 6425, 6426, 6427,
4 6428, 6429, 6430, and 6431, Revised Statutes;

5 (10)(A) Articles 6448, 6449, 6450, 6451, 6452, 6453,
6 6454, 6455, 6456, 6457, 6458, 6459, 6460, 6461, 6462, 6463, 6466,
7 6469, 6470, 6471, 6472, 6473, 6474, 6478, 6479, 6480, 6481, 6482,
8 6483, 6484, 6485, 6486, 6487, 6488, 6489, 6490, 6491, 6492, 6493,
9 6494, 6495, 6496, 6497, 6498, 6499, 6500, 6501, 6502, 6503, 6504,
10 6505, 6506, 6507, 6508, 6509, 6510, 6511, 6512, 6513, 6514, 6515,
11 6516, 6517, 6518, and 6519, Revised Statutes;

12 (B) Chapter 43, Acts of the 41st Legislature, 5th
13 Called Session, 1930 (Article 6472a, Vernon's Texas Civil
14 Statutes);

15 (C) Chapter 127, Acts of 56th Legislature,
16 Regular Session, 1959 (Article 6478a, Vernon's Texas Civil
17 Statutes); and

18 (D) Chapter 110, Acts of the 43rd Legislature,
19 Regular Session, 1933 (Article 6479a, Vernon's Texas Civil
20 Statutes);

21 (11) Articles 6520, 6521, 6522, 6523, 6524, 6525,
22 6526, 6527, 6528, 6529, 6530, 6531, 6532, 6533, and 6534, Revised
23 Statutes;

24 (12) Articles 6551, 6552, 6553, and 6554, Revised
25 Statutes; and

26 (13)(A) Articles 6555, 6556, 6557, 6558, and 6559,
27 Revised Statutes; and

1 (B) the following Acts and articles as compiled
2 in Vernon's Texas Civil Statutes: 6559g-1, 6559g-2, 6559h-1,
3 6559h-2, 6559h-3, 6559h-4, 6559h-5, 6559h-6, 6559h-7, 6559h-8,
4 6559h-9, 6559h-10, 6559h-11, 6559i-3, 6559i-4, 6559i-5, 6559i-6,
5 and 6559i-7.

6 SECTION 6. A railroad incorporated under Title 112, Revised
7 Statutes, before the effective date of this Act:

8 (1) is not affected by the repeal under this Act of the
9 laws involving incorporation under that title; and

10 (2) is governed by the laws involving the
11 incorporation of railroads in effect immediately before the
12 effective date of this Act, and the former laws are continued in
13 effect for that purpose.

14 SECTION 7. This Act takes effect September 1, 2007.

ADOPTED

MAY 23 2007

Lotay Spaw
Secretary of the Senate

By: Krusee/Shapleigh

H.B. No. 3711

Substitute the following for H.B. No. 3711:

By: Shapleigh

C.S. H.B. No. 3711

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AN ACT

relating to the repeal of obsolete statutes regulating railroads.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 112, Revised Statutes, is amended by adding Article 6259a to read as follows:

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(1) a railroad incorporated under this title before September 1, 2007; or

(2) any other legal entity operating a railroad in this state, including an entity organized under the Texas Business Corporation Act or the Texas Corporation Law provisions of the Business Organizations Code.

SECTION 2. Article 6336, Revised Statutes, is amended to read as follows:

Art. 6336. WHEN CORPORATION AND OWNER DISAGREE. (a) A [~~if any~~] railroad corporation may acquire property by condemnation if the corporation cannot [~~shall at any time be unable to~~] agree with the owner for the purchase of the property and the property is [~~any real estate, or material thereon,~~] required for the following purposes:

(1) the [~~purpose of its~~] incorporation of the railroad;

(2) [or] the transaction of railroad corporation [~~its~~]

1 business;

2 (3) [~~for its~~] depots, station buildings, and machine
3 and repair shops;

4 (4) [~~for~~] the construction of reservoirs for the
5 water supply;

6 (5) [~~or for~~] the right of way, or [~~for a~~] new or
7 additional right of way;

8 (6) a [~~for~~] change[~~or~~] or relocation;

9 (7) a [~~or~~] road bed;

10 (8) shortening a [~~to shorten the~~] line;

11 (9) reducing [~~or any part thereof, or to reduce its~~]
12 grades;

13 (10) [~~or any of them, or for~~] double tracking the
14 [~~its~~] railroad or constructing and operating [~~its~~] tracks; or

15 (11) [~~which is hereby authorized and permitted, or~~
16 ~~for~~] any other [~~lawful~~] purpose connected with or necessary to the
17 building, operating, or running of the railroad [~~its road, such~~
18 ~~corporation may acquire such property by condemnation thereof. The~~
19 ~~limitation in width prescribed by Article 6319 shall not apply to~~
20 ~~real estate or any interest therein, required for the purposes~~
21 ~~herein mentioned, other than right of way, and shall not apply to~~
22 ~~right of way when necessary for double tracking or constructing or~~
23 ~~adding additional railroad tracks, and real estate, or any interest~~
24 ~~therein, to be acquired for such other purposes, or any of them,~~
25 ~~need not adjoin or abut on the right way, and no change of the line~~
26 ~~through any city or town, or which shall result in the abandonment~~
27 ~~of any station or depot, shall be made, except upon written order of~~

1 ~~the Railroad Commission of Texas, authorizing such change].~~

2 (b) A ~~[No]~~ railroad corporation may not ~~[shall have the~~
3 ~~right under this law to]~~ condemn property under ~~[any land for the~~
4 ~~purposes mentioned in]~~ this article that is located ~~[situated]~~ more
5 than two miles from the right of way of the ~~[such]~~ railroad
6 corporation.

7 SECTION 3. Article 6351, Revised Statutes, is amended to
8 read as follows:

9 Art. 6351. EMINENT DOMAIN. A ~~[When any]~~ railroad
10 corporation or a receiver ~~[receivers]~~ of a ~~[any]~~ railroad that
11 changes, relocates, or abandons a ~~[shall have been empowered under~~
12 ~~the provisions of this law to change, relocate or abandon its]~~ line
13 of railroad in this State may ~~[, it shall have full power to]~~
14 acquire by condemnation or otherwise all lands for right of way,
15 depot grounds, shops, roundhouses, water supply sites, sidings,
16 switches, spurs or any other ~~[lawful]~~ purposes connected with or
17 necessary to the building, operating or running of the railroad,
18 ~~[its road]~~ as changed, relocated or abandoned; provided~~[, however,]~~
19 that ~~[all]~~ property ~~[so]~~ acquired under this article is ~~[hereby]~~
20 declared ~~[to be]~~ for and ~~[is]~~ charged with public use ~~[so far as the~~
21 ~~same may be necessary]~~.

22 SECTION 4. Article 6445(a), Revised Statutes, is amended to
23 read as follows:

24 (a) To the extent not preempted by federal law, ~~[Power and~~
25 ~~authority are hereby conferred upon]~~ the Texas Department of
26 Transportation:

27 (1) has power and authority over:

1 (A) [all] railroads, including ~~[and]~~ suburban,
2 belt and terminal railroads;

3 (B) ~~[, and over all]~~ public wharves, docks,
4 piers, elevators, warehouses, sheds, tracks and other property used
5 in connection with railroads; ~~[therewith in this State,]~~ and

6 (C) ~~[over all]~~ persons, associations and
7 corporations, private or municipal, owning or operating a ~~[such]~~
8 railroad, or a wharf, dock, pier, elevator, warehouse, shed, track
9 or other property used in connection with a railroad; and

10 (2) shall ~~[to fix, and it is hereby made the duty of~~
11 ~~the said department to adopt all necessary rates, charges and~~
12 ~~regulations, to]~~ govern and regulate those ~~[such]~~ railroads,
13 persons, associations and corporations~~[, and to correct abuses and~~
14 ~~prevent unjust discrimination in the rates, charges and tolls of~~
15 ~~such railroads, persons, associations and corporations, and to fix~~
16 ~~division of rates, charges and regulations between railroads and~~
17 ~~other utilities and common carriers where a division is proper and~~
18 ~~correct,]~~ and ~~[to]~~ prevent ~~[any and all other]~~ abuses in the conduct
19 of their business ~~[and to do and perform such other duties and~~
20 ~~details in connection therewith as may be provided by law].~~

21 SECTION 5. The following are repealed:

22 (1) Articles 6259, 6260, 6261, 6262, 6263, 6264, 6265,
23 6266, 6267, 6268, 6269, 6270, 6271, 6272, 6273, and 6274, Revised
24 Statutes;

25 (2) Articles 6275, 6276, 6277, 6278, 6279, 6280, 6281,
26 6282, 6283, 6284, 6285, 6286, and 6287, Revised Statutes;

27 (3) Articles 6288, 6289, 6290, 6291, 6292, and 6293,

1 Revised Statutes;

2 (4) Articles 6294, 6295, 6296, 6297, 6298, 6299, 6300,
3 6301, 6302, 6303, 6304, 6305, 6306, 6307, and 6308, Revised
4 Statutes;

5 (5) Articles 6309, 6310, 6311, 6312, 6313, 6314, and
6 6315, Revised Statutes;

7 (6)(A) Articles 6316, 6317, 6319, 6321, 6322, 6323,
8 6324, 6325, 6328, 6329, 6330, 6331, 6332, 6333, 6334, 6335, and
9 6340, Revised Statutes; and

10 (B) Chapter 73, Acts of the 39th Legislature,
11 Regular Session, 1925 (Article 6316a, Vernon's Texas Civil
12 Statutes);

13 (7) Articles 6342, 6343, 6344, 6345, 6346, 6347, 6348,
14 6349, 6350, 6352, and 6353, Revised Statutes;

15 (8)(A) Articles 6354, 6355, 6356, 6357, 6358, 6359,
16 6360, 6361, 6362, 6363, 6364, 6365, 6368, 6369, 6372, 6373, 6374,
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18 6388, 6389, 6390, 6391, 6392, 6393, 6394, 6395, 6396, 6397, 6398,
19 6399, 6401, 6403, 6404, 6405, 6406, 6407, 6408, 6409, 6410, 6411,
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23 Statutes);

24 (C) Chapter 240, Acts of the 40th Legislature,
25 Regular Session, 1927 (Article 6418a, Vernon's Texas Civil
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27 (D) Chapter 296, Acts of the 41st Legislature,

1 Regular Session, 1929 (Article 6418b, Vernon's Texas Civil
2 Statutes);

3 (9) Articles 6421, 6422, 6423, 6424, 6425, 6426, 6427,
4 6428, 6429, 6430, and 6431, Revised Statutes;

5 (10)(A) Articles 6448, 6449, 6450, 6451, 6452, 6453,
6 6454, 6455, 6456, 6457, 6458, 6459, 6460, 6461, 6462, 6463, 6466,
7 6469, 6470, 6473, 6474, 6478, 6479, 6480, 6481, 6482, 6483, 6484,
8 6485, 6486, 6487, 6488, 6489, 6490, 6491, 6492, 6493, 6494, 6495,
9 6496, 6497, 6498, 6499, 6500, 6501, 6502, 6503, 6504, 6505, 6506,
10 6507, 6508, 6509, 6510, 6511, 6512, 6513, 6514, 6515, 6516, 6517,
11 6518, and 6519, Revised Statutes;

12 (B) Chapter 127, Acts of 56th Legislature,
13 Regular Session, 1959 (Article 6478a, Vernon's Texas Civil
14 Statutes); and

15 (C) Chapter 110, Acts of the 43rd Legislature,
16 Regular Session, 1933 (Article 6479a, Vernon's Texas Civil
17 Statutes);

18 (11) Articles 6520, 6521, 6522, 6523, 6524, 6525,
19 6526, 6527, 6528, 6529, 6530, 6531, 6532, 6533, and 6534, Revised
20 Statutes;

21 (12) Article 6549, Revised Statutes;

22 (13) Articles 6551, 6552, 6553, and 6554, Revised
23 Statutes; and

24 (14)(A) Articles 6555, 6556, 6557, 6558, and 6559,
25 Revised Statutes; and

26 (B) the following Acts and articles as compiled
27 in Vernon's Texas Civil Statutes: 6559g-1, 6559g-2, 6559h-1,

1 6559h-2, 6559h-3, 6559h-4, 6559h-5, 6559h-6, 6559h-7, 6559h-8,
2 6559h-9, 6559h-10, 6559h-11, 6559i-3, 6559i-4, 6559i-5, 6559i-6,
3 and 6559i-7.

4 SECTION 6. A railroad incorporated under Title 112, Revised
5 Statutes, before the effective date of this Act:

6 (1) is not affected by the repeal under this Act of the
7 laws involving incorporation under that title; and

8 (2) is governed by the laws involving the
9 incorporation of railroads in effect immediately before the
10 effective date of this Act, and the former laws are continued in
11 effect for that purpose.

12 SECTION 7. This Act takes effect September 1, 2007.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 16, 2007

TO: Honorable John Carona, Chair, Senate Committee on Transportation & Homeland Security

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3711 by Krusee (Relating to the repeal of obsolete statutes regulating railroads.),
Committee Report 2nd House, Substituted

No fiscal implication to the State is anticipated.

Based on the analysis of the Texas Department of Transportation, it is assumed the bill would not result in a fiscal impact to the state.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 601 Department of Transportation

LBB Staff: JOB, KJG, TG

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 11, 2007

TO: Honorable John Carona, Chair, Senate Committee on Transportation & Homeland Security

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3711 by Krusee (Relating to the repeal of obsolete statutes regulating railroads.), **As Engrossed**

No fiscal implication to the State is anticipated.

Based on the analysis of the Texas Department of Transportation, it is assumed the bill would not result in a fiscal impact to the state.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 601 Department of Transportation

LBB Staff: JOB, KJG, TG

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 18, 2007

TO: Honorable Mike Krusee, Chair, House Committee on Transportation

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3711 by Krusee (Relating to the repeal of obsolete statutes regulating railroads.),
Committee Report 1st House, Substituted

No fiscal implication to the State is anticipated.

Based on the analysis of the Texas Department of Transportation, it is assumed the bill would not result in a fiscal impact to the state.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 601 Department of Transportation

LBB Staff: JOB, KJG, TG

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 2, 2007

TO: Honorable Mike Krusee, Chair, House Committee on Transportation

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3711 by Krusee (Relating to the repeal of obsolete statutes regulating railroads.), **As Introduced**

No fiscal implication to the State is anticipated.

Based on the analysis of the Texas Department of Transportation, it is assumed the bill would not result in a fiscal impact to the state.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 601 Department of Transportation

LBB Staff: JOB, KJG, TG

